

**IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Writ Petition No. 811 of 2005 (S/S)**

Bhuwan Chandra Pant
S/o Late Shri Bisnu Datt Pant
R/o Durga Niwas, Saket Colony, Bhimtal
District – Nainital. Petitioner.

Versus

1. State of Uttaranchal through its Chief Secretary
Dehradun
2. Principal Secretary, Personnel and Public Grievances
State of Uttaranchal, Dehradun
3. Commissioner, Kumaon Division,
Nainital.
4. M/s Kumaon Mandal Vikas Nigam Ltd.
through its Managing Director, Oak Park,
Nainital, District – Nainital.
5. Principal
Kumaon Engineering College,
Dwarahat, Distt. Almora
6. Uttaranchal Power Corporation,
Through its Director (HR)
Urja Bhawan, Kanwali Road
Dehradun(UA) Respondents.

Sri I.P. Gariola, learned counsel for the petitioner.
Sri Paresh Tripathi, learned Standing Counsel for the respondents nos. 1 to 3
Sri U.K. Uniyal, Sr. Advocate for respondent no.4
Sri B.D. Upadhyaya, learned counsel for the respondent no. 6.

Hon'ble B.C. Kandpal, J.

By means of this Writ Petition, the petitioner has sought a writ in the nature of mandamus commanding the respondents to absorb the petitioner on the post having identical pay scale in any State Government Department/Undertaking and to pay back wages w.e.f. 01.04.1996.

Brief facts as narrated in the writ petition are that the petitioner was appointed as Administrative Officer in M/s Kumaon Television Ltd., Bhimtal, District – Nainital which is a subsidiary company of respondent no. 4, i.e., M/s Kumaon Mandal Vikas Nigam Ltd. on 01.10.1984. The petitioner was promoted as Assistant Manager on 01.07.1989. The petitioner worked continuously upto 31.03.1996 till the date when the petitioner alongwith other employees of the company were retrenched. The Government has issued a direction for re-appointment on 30.12.1995 vides Government order. The Government thereafter vide order dated 12.02.2001 and 08.11.2001 decided to adjust reappointment of the retrenched employees and prepared a list accordingly. The name of the petitioner finds place in that list. The Government again on 26.02.1996 issued order for absorption of the retrenched employees.

It is alleged by the petitioner that as per the Government order he has not been absorbed on the post having identical pay scale. Although the respondent no. 2 has started recruitment process for filling up of the existing vacancy. Not only that it is also alleged that other similarly situated employees have been given jobs in pursuance of aforesaid Government order and letter dated 25.04.1996 which was issued by the Principal Secretary, Uttarakhand Vikas Vibhagh, Government of U.P.

Heard learned counsel for the parties and perused the record.

The short question for consideration for this court is whether the petitioner is entitle to be given appointment as on identical post in compliance of the Government order dated 30.12.1995 and 26.02.1996 with fully salary w.e.f. 1st April, 1996 or not.

Admittedly, the petitioner was holding the post of the Assistant Manager in M/s Kumaon Television Limited and he worked upto 31.03.1996. Para 3 of the Government Order No. 257 dated 26.02.1996 issued by the uttarakhand Vikas Vibagh reads as under:

“सरकारी सेवा/निगमों/उपक्रमों की सेवा में भर्ती हेतु निर्धारित न्यूनतम शैक्षिक अर्हता तथा अनुभव विषयक शर्तें पूरा करने वाले टेलीट्रानिक्स/कुमायू टेलीविजन लिमिटेड कर्मचारी/अधिकारी ही उक्त सेवायोजन हेतु पात्र होंगे। यदि ऐसे कर्मचारी टेलीट्रानिक्स/कुमायू टेलीविजन लिमिटेड में ऐसे पद पर नियुक्त हुए थे जिनका कर्तव्य तथा उत्तरदायित्व उस पद के समान है, जिस पद के लिए निर्धारित शैक्षिक योग्यता रखते थे, तो यह समझा जायेगा कि वे वर्तमान पद के लिए अब वे अभ्यर्थी है, अपनी नियुक्ति के सबब उपरोक्त पद के लिए निर्धारित शैक्षिक अर्हता पूर्ण करते है।”

So, in view of aforesaid para, it can very well be said that the petitioner fulfilled the qualification for the appointment/absorption because entire Government order is to be read as a whole wherein it has been mentioned that the retrenched employee will be given appointment in accordance with the law of the service rule of 1991.

In view of the aforesaid Government Order, it was incumbent upon the respondents authority to provide suitable employ to the all wind up corporations, i.e., Kumaon Television Limited.

The petitioner has filed certain copies of the judgment passed by the this court earlier in the matter of other retrenched employees of the Teletronic Limited as well as Kumaon Television Limited and it reveals from the perusal of those judgments that this court had allowed the petitions filed by other retrenched employees and directed the respondents to provide the job to the petitioners in compliance of the Government Order stated above.

Accordingly, the writ petition is allowed. The respondents are directed to give appointment to the petitioner

on the post having identical pay scale in compliance of the Government Order dated 30.12.1995 and 26.02.1996 with full salary w.e.f. 01.04.1996 within a period of there months.

No order as to costs.

With these observations, the writ petition is finally disposed of.

(B.C. Kandpal, J.)

23rd June, 2005
Shiv